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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,783	01/26/2001	Luc Wuidart	S1022/8526	8267

7590 08/11/2004

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EXAMINER

ZIMMERMAN, BRIAN A

ART UNIT	PAPER NUMBER
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2635

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/770,783

Applicant(s)

WUIDART, LUC

Examiner

Brian A Zimmerman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10, 13-38 is/are allowed.
- 6) ☒ Claim(s) 11 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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**EXAMINER'S RESPONSE**

**Status of Application**

In response to the applicant's amendment received on 6/7/04. The examiner has considered the new presentation of claims and applicant arguments in view of the disclosure and the present state of the prior art. And it is the examiner's position that claims 11 and 12 are unpatentable for the reasons set forth in this office action:

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art, the PCT document (WO99/43096 hereafter referred to as Kuffner) and Murdoch (US 5701121).

The applicant admits that terminals 1 are commonly used to communicate with tags 10 (figure 1 of the instant application). Further, the applicant admits that the terminals generally include a high frequency oscillator, see page 2 line 12. It is not clear from the applicant's admission whether they believe it is common to regulate the phase of the signal transmitted by the terminal and it appears clear that the applicant's believe that the admitted prior does not change the field transmitted by the terminal in response to a determined relationship between the terminal and the tag.

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In an analogous art, Murdoch teaches the use of a phase regulator in a transmitter in order to provide modulation and be able to communicate data. See col. 9 lines 5-32. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used a phase regulator in the terminal discussed by the applicant as a conventional example of a data exchange system since such would provide the ability to precisely modulate data on the carrier signal.

In an analogous art, Kuffner shows a means for determining the magnetic coupling by monitoring circuit characteristics of the antenna to provide automatic control of the power without requiring any 'communication' feedback. Kuffner teaches measuring the voltage and current across a capacitive element of the circuit in order to determine the magnetic coupling. See page 5 lines 5+ and page 6 lines 1+. Kuffner goes through a learning phase in order to determine and store characteristic information that can be used to determine magnetic coupling from the instantaneous measurements, see page 7 lines 21+ and page 9 lines 5+.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used Kuffner's means and method of comparing a measured impedance characteristic with stored characteristics in order to determine the magnetic coupling which is then used to adjust the power of the field being transmitted in order to maintain enough power that the communication will work while preventing excessive power transmission that could overheat the transponder.

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Claims 1-10,13-38 are allowed.

***Response to Arguments***

Applicant's arguments filed 6/7/04 have been fully considered but they are not persuasive.

Regarding the recitation of "maintaining a constant phase relationship..." in claim 11; this recitation is not interpreted as adding limitations to the claimed method for multiple reasons. Namely the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). Furthermore, the recitation is directed to the apparatus (a terminal) while the claim is directed to a method, so it is interpreted that the recitation does not breathe life into the claimed method steps of claim 11.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is

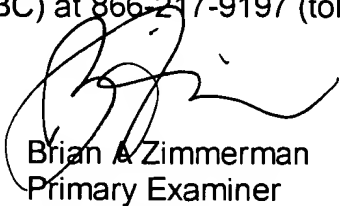
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filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian A Zimmerman whose telephone number is 703-305-4796. The examiner can normally be reached on Off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Horabik can be reached on 703-305-4704. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brian A Zimmerman  
Primary Examiner  
Art Unit 2635

BAZ